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Mike  
Doug Crapo  
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Div. of Oil, Gas & Mining

# Uranium Watch

76 South Main Street, # 7 | P.O. Box 344  
Moab, Utah 84532  
435-260-8384

via electronic mail

April 15, 2014

Lance Porter  
District Manager  
Canyon Country District  
Bureau of Land Management  
82 East Dogwood  
Moab, Utah 84532  
[l50porte@blm.gov](mailto:l50porte@blm.gov)

RE: Regulations Applicable to Suspension of Mine Operations, Plan of Operations, and NEPA Review: Rim Mine (UTU-68061) (UTY000). Utah Mine ID: M0370006.

Dear Mr. Porter:

Thank you for your March 20, 2014, response to my letter of February 25, 2014. I apologize for including irrelevant and misleading information on some of the regulations and confusing the matter. The Rim Mine, in San Juan County, Utah, is owned and operated by Energy Fuels Resources (USA) Inc.

Below is Uranium Watch's response to your March 20 letter regarding Rim Mine Suspension of Mine Operations, Plan of Operations, and NEPA Review. I will respond to the Energy Fuels Revised Interim Management Plan for Rim Columbus Mine by separate letter.

1. Regarding 2.1 of your response, the 43 C.F.R. § 3809.1-5(c)(6)<sup>1</sup> regulations applicable to the Plan of Operations (POO) filed by Atlas Minerals September 28, 1983, do address measures to be taken during extended periods of nonoperation.

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<sup>1</sup> 45 Fed. Reg. 78902; November 26, 1980.



2. Regarding 3 (Five Year Review) of your response, even though operations include a number of types of activities at a mine, if maintenance work and environmental compliance activities are also considered "operations," then there would be no need for measures to be taken during extended periods of nonoperation, because any such measures would include work at the facility and there would be few periods of nonoperation. It is confusing to claim that any work done at a mine is part of the operation, then ask for interim measures (including some types of work) to be done at the mine (or claim that such work will be done) during periods of nonoperation. I think that the plain meaning of the regulations is that a period of "nonoperation" means no "prospecting, discovery and assessment, development, extraction, or processing of mineral deposits" is taking place.<sup>2</sup> Since site maintenance does not fall under work or activities for "prospecting, discovery and assessment, development, extraction, or processing of mineral deposits," it would be part of nonoperational measures. Once extraction ceases, the period of nonoperation has commenced and requires an Interim Management Plan, because few, if any, mine workers are on-site during most that period. The operators of the Rim Mine on different occasions notified the Utah Department of Oil, Gas and Mining of periods of suspension of operations.<sup>3</sup>

Extraction of ore at the Rim Mine last ceased in 2009. Mine Safety and Health Administration (MSHA) data on the Rim Mine (MSHA Mine ID: 4200472) contains information on the number of workers and hours worked.<sup>4</sup> Each operator of a mine in which an individual worked during any day of a calendar quarter is required to report the average number of persons working during quarter and total employee-hours worked during the quarter.<sup>5</sup>

According to information in the MSHA Mine Data Retrieval System, the last work at the Rim Mine was in the third quarter of 2009. Extraction of ore ceased the first quarter of 2009. The last MSHA inspection of the Rim Mine took place in March 4, 2009, when there were 3 violations of health and safety regulations. MSHA considers the Rim Mine to be "Abandoned." The mine was also nonoperational from 1991 through 1997 and 1999 through 2007, in addition to periods of nonoperation prior to 1991.

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<sup>2</sup> 43 C.F.R. § 3809.0-5(f), Definition of "Operations." 45 Fed. Reg. 78902, 78910; November 26, 1980.

<sup>3</sup> <http://linux1.ogm.utah.gov/WebStuff/wwwroot/minerals/mineralsfilesbypermit.php?M0370006>

<sup>4</sup> MSHA Mine Data Retrieval System: <http://www.msha.gov/drs/drshome.htm>

<sup>5</sup> 30 CFR § 50.30; Preparation and submission of MSHA Form 7000-2--Quarterly Employment and Coal Production Report. <http://www.msha.gov/30cfr/50.30.htm#UzIQHK6fuPU>  
30 CFR § 50.30-1, General instructions for completing MSHA Form 7000-2.  
<http://www.msha.gov/30cfr/50.30-1.htm#UzINGa6fuPU>



Table 1: MSHA Quarterly Reported Production Information					
Rim Mine — Mine ID: 4200472					
Prod. Year	Prod. Qtr.	Subunit Code	Subunit	Quart. Hours	Ave. Emp. Cnt.
2009	1	1	Underground	4300	9
2009	1	2	Surface at Underground	0	0
2009	2	1	Underground	21	1
2009	3	1	Underground	0	0
2009	3	2	Surface at Underground	30	1

If any maintenance work at the Rim Mine occurred after August 2009, the owner of the Rim Mine did not report those work hours to MSHA, as required by MSHA regulations and statute.

So, depending on your interpretation of the definition of “Operations” in 43 C.F.R. § 3809.0-5(f), and your acceptance of MSHA Quarterly Reported Production Information, the mine became nonoperational in the second or third quarter of 2009.

### 3. PLAN OF OPERATIONS

3.1. The 1983 POO contains a brief 1-page description of the operations. The description does not include information on: the exact location of surface disturbance, surrounding land use, water treatment system, transportation routes, ore and waste rock handling, surface disturbances that the mine operator is taking and not taking responsibility for, road access, measures taken to protect workers, measures taken to suppress dust and other emissions, explosives and chemical storage, measures to handle hazardous materials, erosion control, and runoff control. The POO did not contain information regarding cumulative impacts associated with other mining activities in the area, including those associated with the Columbus and Humbug portals and waste rock piles that the mine operator was not taking responsibility for.

3.2. The BLM regulations applicable to 1983 POO (43 C.F.R. § 3809.1-5) includes the following requirement:

- *The plan should include: Measures to be taken to prevent unnecessary or undue degradation and measures to reclaim disturbed areas resulting from the proposed operations, including the standards listed in § 3809.1-3(d) of this Part. [43 C.F.R.*



§ 3809.1-5(c)(5).]

COMPLIANCE:

3.2.1. The Plan of Operations (POO) includes a section on Environmental Protection. This section contains a total of 3 paragraphs (total of 5 sentences) describing what will be done to prevent unnecessary or undue degradation at the Rim Mine. The copy I received from the BLM does not include any maps or diagrams. A comparison of this POO with a more current POO for other uranium mining operations in Southeast Utah would reveal that there are a number of aspects of the POO that are incomplete or missing. This includes a description of site characteristics, impacts to wild and domestic animals, impacts to workers, impacts from transportation, emissions of radioactive and non-radioactive gases and particulates, impacts to air, soils, and ground and surface water. There is no description of cumulative impacts.

3.2.2. The POO includes a section on Reclamation, which is 3 paragraphs (total of 8 sentences). The October 31, 1983, supplement to the POO, adds a page and a half of additional information on the reclamation plans and 2 pages with a description of the Procedure for Borehole Sealing and some diagrams. The information is scant. The plan does not include a full description of the reclamation of the water treatment system, include buildings, ponds, contaminated equipment, sediments, and other materials. There was no description of existing surface disturbance at the Rim/Columbus/Humbug Mine Complex. There was no discussion of which disturbances the mine operator would be responsible for. There is no discussion of the reclamation of the Columbus and Humbug portals and waste rock piles. There is no information regarding the cleanup of radiologically contaminated soils and ground and surface water. There is no discussion of the reclamation of mine and exploration access roads.

3.2.3. Section 3809.1-3(d) lists a number of standards that should be addressed in the POO. These include information about access roads. The POO contains 2 sentences regarding access roads and nothing about the location, purpose, condition, maintenance requirements, or width of those roads.

3.2.4. Section 3809.1-3(d)(4)(ii) requires information about measures to control erosion, landslides, and water runoff. The POO contains no information regarding the control of erosion, landslides, or water runoff.

3.2.5. Section 3809.1-3(d)(4)(iii) requires information about measures to isolate, remove, or control toxic materials. The POO contains scant information regarding measures to be taken to isolate, remove, or control radioactive and non-radioactive materials at the site. There is no information about the control of radioactive gases and particulates, diesel fumes, dust, non-radioactive hazardous constituents in the ore. There is no information about measures to control dust and emissions during ore handling and truck and equipment operation, the emission of radiation from the ore trucks, emissions from stored ore or the underground mining operation. There is no information about the



measures to control contamination of ground and surface water from radioactive and non-radioactive constituents the migrate from the ore pads, stockpiled ore, low-grade ore piles, waste rock piles, water treatment ponds, and discharges from the water treatment system. There is no information on the storage and handling of explosives, diesel and other fuels, oil and grease, and other chemicals and hazardous materials used in the mining operation.

3.2.6. The POO did not contain sufficient information regarding the potential of the operation to create unnecessary and undue degradation and the measures to be taken to prevent such degradation. In sum, the Rim Mine POO did not meet the requirements for a POO laid out in 43 C.F.R. § 3809.1-5.

3.2.7. In 1997, the mine operator proposed new disturbances on the site of existing disturbances. Apparently, the mine owner was not going to be held responsible for the existing disturbances, so any new activities on the existing disturbances were not included in the 1983 POO.

3.3. Section 3809.1-5(6) requires the POO to include:

- *Measures to be taken during extended periods of nonoperation to maintain the area in a safe and clean manner and to reclaim the land to avoid erosion and other adverse impacts. If not filed at the time of plan submittal this information shall be filed with the authorized officer, whenever the operator anticipates a period of nonoperation.*

#### COMPLIANCE:

3.3.1. The 1983 POO did not include a description of measures to be taken during extended periods of nonoperation, even though the mine was not operating when the POO was filed. Between 1982 and 2014, the Rim Mine experienced extended periods of nonoperation: 1982-1983; 1985-1989; 1991-1997; 2001-2007; 2009-present. The mine produced ore in 1984,<sup>6</sup> 1989, 1990, 1998, 1999, 2000, and 2009. According to the cover letter to the POO, the mine had last operated in 1980. According to letters from Atlas Minerals, the mine temporarily ceased operation in July 1982 and resumed January 1984. In sum: over a period of 30 years, the mine operated (that is, development work was done and/or the mine produced ore) during 7 of those years, less that 25% of the time. Yet, during none of the four periods of suspension of operations (starting in 1985), did the mine owner submit the required "measures to be taken during extended periods of nonoperation to maintain the area in a safe and clean manner and to reclaim the land to avoid erosion and other adverse impacts." It was not until Uranium Watch brought this to the attention of the BLM that the current Rim Mine owner/operator submitted an Interim

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<sup>6</sup> Data regarding mine operation and production in 1984 is not on the DOGM mineral files. Other records states that the mine produced ore in 1984.



Management Plan to the BLM. Thirty years is a long time for BLM indifference to regulatory requirements. I am sure that a review of the history of other uranium mines in San Juan County would find a similar history of the suspension of mining operations without the submittal of an Interim Management Plan (for example, the Pandora Mine, La Sal Mine Complex, and Sage Mine).

3.4. The BLM regulations applicable to 1983 POO, at 43 C.F.R. § 3809.1-8 (Existing operations), includes the following requirement:

- *(a) Persons conducting operations on the effective date of these regulations,<sup>7</sup> who would be required to submit a notice under § 3808.1-3 or a plan of operations under § 3809.1-4 of this Part may continue operations but shall, within,*  
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*(c) 120 days submit a plan in those areas identified in in § 3809.1-4 of this Part. Upon a showing of good cause, the authorized officer may grant an extension of time, not to exceed an additional 180 days, to submit a plan.*

COMPLIANCE:

3.4.1. The Rim Columbus Mine was operating in 1981 and 1982 (removal of ore and waste rock). Atlas Minerals Corporation, the mine owner and operator, did not submit the required POO until, September 1983, 2 years and 3 months after the POO was due, and almost 2 year after after the proposed extension of time to submit the POO, if such had been granted. Therefore, the POO for the Rim Mine was not timely.

4. PLAN APPROVAL

4.1. The BLM regulations applicable to Plan Approval, at 43 C.F.R. § 3809.1-6, includes the following requirement:

- *The authorized officer shall undertake an appropriate level of cultural resource inventory of the area to be disturbed. 43 C.F.R. § 3809.1-6(c).*

COMPLIANCE:

4.1.1. The Decision Record, Finding of No Significant Impact, and Environmental Assessment (EA) do not include any information regarding any cultural resource inventory or a determination of the appropriate level of cultural resource inventory to be undertaken. One-fourth of the historical cultural resource sites in Utah are in San Juan County. There is no evidence that the BLM determined the appropriate level of cultural resource inventory. The Checklist for Environmental Assessment, included in the EA indicates that Cultural or Historic Resources "May be Impacted." There is no

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<sup>7</sup> January 1, 1981. 45 Fed. Reg. 78902; November 26, 1980.



evidence that the BLM contacted any outside agency regarding possible cultural resources at on in the vicinity of the site.

## 5. ENVIRONMENTAL ASSESSMENT

5.1. The BLM regulations applicable to the Prevention of Unnecessary or Undue Degradation and the Environmental Assessment (43 C.F.R. § 3809.2-1), at the time the EA for the Rim Mine was issued, includes the following requirement:

- *In conjunction with the operator, the authorized officer shall use the environmental assessment to determine the adequacy of mitigating measures and reclamation procedures included in the plan to insure the prevention of unnecessary or undue degradation of the land. 43 C.F.R. § 3809.2-1(b).*

## COMPLIANCE

5.1.1 The 1983 BLM Rim Mine EA is 3 pages long, with 10 pages of Attachments. It was accompanied by a one-page Decision Record and Finding of No Significant Impact. The EA includes an introduction, a description of the proposed action and alternatives (2 pages), a discussion of the affected environment and environmental consequences (1 page), and a discussion of of consultation and public input (1 sentence—there was no outside consultation). The discussion of the affected environment and environmental consequences does not, in fact, include an assessment of the environmental consequences associated with the operation of the Rim Mine over the short and long terms. There is no discussion of the reclamation procedures. The Attachments include a Checklist for Environmental Assessment. The checklist lists 12 potential types of environmental impacts. BLM staff checked “Will Not Be Affected” for 11 of these, and checked “May be Impacted” for Cultural or Historic Resources.

The EA includes a page that lists two stipulations, or mitigative measures. One stipulation is a proposed seed mix. The other stipulates that, “At the time of final reclamation, the operator and BLM will confer to find a topsoil borrow site in order to obtain topsoil to be used in reclamation of the waste dumps.” That’s it.

5.1.2. The stipulations in the EA do not address the many ongoing and potential environmental impacts. The stipulations do not insure the prevention of unnecessary or undue degradation of the land from the operation of the Rim Mine.

5.2. There are a number of requirements for a NEPA review and documentation in federal regulations. This letter is not full discussion of how the Rim Mine EA does not meet those federal regulatory requirements and BLM NEPA guidance. It is apparent that the Rim Mine EA does not meet BLM and Council on Environmental Quality requirements for an environmental analysis of a federal action. The EA does not support the continued operation of the Rim Mine. Reasons the EA does not meet those requirements include:



- The EA was based on a POO that did not meet the requirements for a POO.
- The EA is not based on a complete POO that fully describes the current mine imprint and operation.
- The EA did not contain a full description of the affection environment.
- The POO failed to include measures measures to be taken during extended periods of nonoperation. The POO should have included those measures, since the mine had not been operational for 2 years when the POO was submitted and the EA issued. Since the interim measures were not included in the POO, they should have been filed whenever the Rim Mine operator anticipated a period of nonoperation. There were at least 4 extended periods of nonoperation after 1984.<sup>8</sup> There were more years of nonoperation than operation, yet for 30 years the operator failed to comply with the interim measures requirement.
- The EA addressed impacts to 13.3 acres; the current operation is 16 acres.
- The EA did not assess cumulative impacts from the uranium mining operations at and in the vicinity of the Rim Mine.
- The EA did not include a discussion of the environmental consequences associated with the Rim Mine operation. There were numerous environmental consequences that were not identified, characterized, or addressed in 1983 EA.
- The EA did not include an inventory or assessment of the impacts to Cultural or Historic Resources.
- The EA did not evaluate the social and economic impacts from the Rim Mine and the boom and bust uranium economy (uranium mining and milling) in southeast Utah.
- The inadequacies of the EA are similar to those described in the POO, in Section 3, above.
- The BLM did not provide an opportunity for public input or consult with outside agencies (local, state, federal, and tribal).
- The EA does not support a Finding of No Significant Impact.

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<sup>8</sup> 1985-1989; 1991-1997; 2001-2007; 2009-present.



Lance Porter/BLM  
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5.3. Federal NEPA regulations, BLM regulations and guidance, and a large body of NEPA case law would not support the reopening and operation of the Rim Mine based on the 1983 POO and EA. The Rim Mine's past, current, and future environmental impacts must be addressed in a new NEPA document and a new Plan of Operations.

Sincerely.

Sarah M. Fields  
Program Director

cc: Donald Hoffheins, Monticello Office, BLM  
Ted McDougall, Monticello Office, BLM  
Kent Hoffman, Deputy State Director, BLM  
Mike Bradley, Division of Oil, Gas & Mining  
Paul Baker, Division of Oil, Gas & Mining